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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/083,150 05/22/98 BOUSSOUIRA

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HM22/0717

EXAMINER

WERNER, E

ART UNIT

PAPER NUMBER

1617

DATE MAILED:

07/17/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trad marks**

# Office Action Summary

Application No.

09/083150

Applicant(s)

BOUSSOURA

Examiner

WEBMAN

Group Art Unit

1617

--The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address--

## Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 3/29/01
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-44 is/are pending in the application.
- ☐ Of the above claim(s) 29-32, 36, 38-44 is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-28, 33-35, 37 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_.

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 15
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

Art Unit: 1617

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-23, 27, 28, 33, 35, 37 rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al. In view of Fanchon et al.

Wolf et al. Teach an anti-acne composition comprising a carrier (Abstract). Protein and dendritic polymers are specified (column 2 lines 38-42. Column 3 lines 39-40). Emulsions are specified (column 4 lines 42-44). Titanium oxide is specified (column 6 line 34). Stearic acid and Jojoba oil are disclosed (column 5 line 53 and column 6 line 50).

Fanchon et al. Teach anti-acne compositions containing antioxidants and nanopigments as active agents (title, Abstract, column 7 lines 7-9, 11, 13, 29-30).

It would have been obvious to one of ordinary skill to add an antioxidant and nanopigments to the composition of Wolf et al. To achieve the beneficial effect of additional anti-acne actives in view of Fanchon et al.

Claim 24-26 rejected under 35 U.S.C. 103(a) as being unpatentable over Wolf et al as applied to claim 1-23, 27, 28, 33-35, 37 above, and further in view of Garrison et al.

Garrison et al. Teach the chelator EDTA in anti-acne compositions to sequester discoloration-causing metal ions. (Column 4 lines 3-4)

*JW*  
*10/4/01*

*in view of Fanchon et al*  
*1*

Art Unit: 1617

10/2/01  
It would have been obvious to one of ordinary skill to add a EDTA to the composition of Wolf et al. For the beneficial effect of preventing discoloration in view of Garrison et al.

Applicants argue laundry list, however, dendritic polymers are not merely recited in a list but discussed in some detail (column 3 lines 39-56). Motivation to combine Garrison, contrary to applicant's assertion, is provided.

Applicants argue Wolf et al teaches numerous other polymers, however, dendrimers are preferred for their multiple sites of complexation with salicylic acid, providing stability to the composition at pH's above 3 (column 3 lines 39-52, column 1 lines 40-55, column 2 lines 1-7). As to applicant's intended use, such limitations are not considered patentable in composition claims during prosecution before the office.

The disclosure is objected to because of the following informalities: on page 1 lines 3, 6, what U.S. serial #s? The ACS abstracts on PTO form were lined through because applicants did not specify which abstract numbers to be considered.

Appropriate correction is required.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward J. Webman whose telephone number is (703) 308-4432. The examiner can normally be reached on Monday to Friday from 9:00 AM to 5:00 Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, M. Moezie, can be reached on (703) 308-0570 or 305-3592. The fax phone number for the organization where this application or proceeding is assigned is.

Application/Control Number: 09/083,150


Page 4

Art Unit: 1617

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Webman/dt

June 19, 2001



BERNARD J. WEBMAN  
PATENT EXAMINER  
GROUP 1500